

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:)
Schools and Libraries Universal) CC Docket No. 02-6
Service Support Mechanism)

Comments Filed March 11, 2004 by
WiscNet
740 Regent Street, Madison, Wisconsin 53715

Introduction

WiscNet appreciates the opportunity to comment on this Second Further Notice of Proposed Rule Making (*Second FNPRM*) for the Schools and Libraries Universal Service Support Mechanism (E-rate).

WiscNet is a 15-year-old not-for-profit association that provides basic conduit Internet access and advanced network services, including E-rate eligible services, to 490 K-20 education and government member institutions in Wisconsin.

Of our 490 members, 360 are E-rate-eligible entities. During the last six years, we have devoted significant staff-time to assisting our eligible members through the annual processes of application, audit, post-commitment administration and, when necessary, appeal. 85% of our eligible members applied for Program Year 2003 funding. Further, as a service-provider, we work with the Schools and Libraries Division to certify service delivery and arrange reimbursement for discounts.

We have, then, two perspectives on the Second FNPRM. As a state education network, WiscNet is the service-provider who delivers Priority 1 Internet access services to the largest number of eligible entities in Wisconsin.

Simultaneously, we are the largest member-governed association of eligible entities in Wisconsin; our members rely on us to provide advanced telecommunications and information services to public and nonprofit elementary and secondary school classrooms and libraries.

Comments

B. Competitive Bidding Process

Paragraph 7. Simplification of Form 470 Process for certain services.

The Commission requested comment on:

“...whether it would serve our goals [to benefit from competition and minimize waste, fraud and abuse] to simplify or eliminate the current Form 470 posting process [for applications that seek to continue an existing telecommunications service or Internet access service].”

We concur with the March 10, 2004 comments filed by the Wisconsin Department of Public Instruction that urge the Commission to radically reduce Form 470.

Further, we draw the Commission's attention to the complexity of the Form 500 process (described below) that applicants now may use to eliminate Form 470 when continuing an existing Priority 1 service:

| | |
|---|---|
| 1 | The applicant must file information on the initial program year's <u>Form 470 Item 13</u> to indicate intent to enter into a multi-year or one-year contract with an option for voluntary extensions. |
| 2 | The applicant must file information on the initial funding year's <u>Form 471 Block 5</u> to indicate that such a multi-year or one-year contract with optional voluntary extensions was signed |
| 3 | The applicant must exercise the option to extend the contract expiration date to the end of the year subsequent to the initial funding year. |
| 4 | The applicant must file information on <u>Form 500</u> to indicate the contract extension, prior to filing the subsequent funding year's Form 471. |
| 5 | The applicant must file information on the subsequent funding year's <u>Form 471</u> to indicate the change notified via Form 500. |
| 6 | For the third and subsequent funding years, repeat steps 3 to 5. |

The Form 500 process equals in complexity and repetitiveness the Form 470 process it replaces. The Commission should simplify both processes if you choose to retain both.

We further concur with the March 10, 2004 comments filed by the Wisconsin Department of Public Instruction that propose "evergreen" Forms 470 and 471, linked to a "discount threshold" of \$15,000 for Internet access services. The Commission should exempt from filing Form 470 those applicants whose Internet access service fees are less than \$15,000.

To support the Department's proposals, we provide the following program year (PY) 2003 data for E-rate eligible WiscNet members:

| | |
|-----|--|
| 311 | WiscNet members receiving PY 2003 SLD funding commitments |
| 97% | PY 2003 recipients with 2003 Internet access service fees < \$15,000 |
| 88% | PY 2003 recipients with 2003 Internet access service fees < \$12,000 |
| 97% | PY 2003 recipients with SLD 2003 discounts < \$10,000 |
| 91% | PY 2003 recipients with SLD 2003 discounts < \$7,500 |
| 98% | PY 2003 recipients who also selected WiscNet in PY 2002 |
| 96% | PY 2003 recipients who also selected WiscNet in PY 2001 |
| 93% | PY 2003 recipients who also selected WiscNet in PY 2000 |

In further support, we provide PY 2004 data released so far:

| | |
|-----|---|
| 363 | WiscNet members sent PY 2004 quotes for WiscNet Internet access service |
| 274 | PY 2004 applicants selecting WiscNet who also selected WiscNet in PY 2003 (3/11/2004; SLD processing of PY 2004 Forms 471 incomplete) |
| 97% | PY 2004 quotes for Internet access service fees < \$15,000 |
| 92% | PY 2004 quotes for Internet access service fees < \$12,000 |
| 88% | PY 2004 quotes for Internet access service fees < \$10,000 |

We conclude from this data (and from our members' perennial comments as they struggle with filing) that the Commission will lift a complex, repetitive and needless burden by radically simplifying the processes for applicants who seek to continue an existing Internet access service.

Paragraph 9. Certificate of independent price determination.

The Commission requested comment on:

"...whether the Commission, as a condition of support, should require that each service provider certify that the prices in its bid have been independently developed...[and] that records related to the competitive bidding process for services must be maintained by both the recipient and the service provider for a period of five years."

We support requiring a certificate of independent price determination from service providers, preferably as a required statement in the Form 471 Item 21 Attachment.

Further, we support requiring that service providers maintain records related to the competitive bidding process for a five-year period that commences when the relevant program year's Form 471 filing window closes. To comply, service providers should retain the Form 471 Item 21 Attachment given to an applicant.

D. Definition of Internet Access

Paragraph 14. Conform to new RHC mechanism definition.

The Commission requested comment on:

"...whether we should amend our definition of Internet access in the schools context to conform to the definition recently adopted for the rural health care (RHC) support mechanism."

The Commission should update periodically your definition of eligible Internet access to maintain competitive neutrality among service providers and to support cost-effective, flexible and reasonable use of current (and emerging) Internet-transported

information services in public and nonprofit elementary and secondary school classrooms and libraries .

To achieve these ends, we concur with the March 10, 2004 comments filed by the Wisconsin Department of Public Instruction that urge the Commission to conform the schools and libraries support mechanism's definition of Internet access services to the definition recently adopted for the RHC mechanism. Such conformance would restore to the schools and libraries definition its competitive neutrality, technological relevance and alignment with applicants' educational technology plans.

In the RHC order, the Commission noted that many (primarily educational) information services that you identified as reasonable, cost-effective Internet access services for rural health care providers are precluded from support under the schools and libraries definition. The Commission thus rejected conforming your new RHC definition to the current schools and libraries definition, deciding instead that:

1. Rural health care providers should benefit from supported access to the accelerating technological convergence onto the Internet of content-rich information services transported as voice, video, hypertext and other data-types.
2. Rural health care providers should benefit from Internet services that permit users to generate, alter, interact and transport information via Internet protocols and connections.
3. Eligible Internet access includes all features typically provided by Internet service providers to provide adequate functionality and performance, so long as the transmissions traverse the Internet in some fashion.

Hence, the current schools and libraries definition denies support to the many RHC-eligible information services that are of equal educational utility and benefit to teachers, students, librarians and patrons.

Further, the current schools and libraries definition, with its narrow, obsolete focus on "basic conduit access" penalizes Internet service providers who are not simultaneously telecommunications services providers. Such Internet service providers want to offer schools and libraries a typical, modern bundle of services that are already offered to ineligible entities (e.g., management and scheduling of multipoint Internet video-conferencing) but they are precluded from offering E-rate discounts on such typical services under current SLD interpretation of the definition. The SLD, however, permits telecommunications service providers to provide E-rate discounts on the identical services. The current definition, thus, is not competitively neutral.

We concur with the Wisconsin Department of Instruction that the current schools and libraries definition of Internet access, and its systematic application by SLD, now directly contradicts the language in section 254 of the Telecommunications Act that states, "The Commission shall establish competitively neutral rules (A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services."

We urge the Commission to conform the schools and libraries definition to the RHC definition of Internet access and services.

E. Wide Area Networks

Paragraph 20. Provision of funding for dark fiber.

The Commission requested comment on:

“...whether we should permit funding for dark fiber, pursuant to section 254(h), to provide additional flexibility to applicants in meeting their communications needs.”

We concur with the March 10, 2004 comments filed by the Wisconsin Department of Public Instruction that urge the Commission to permit funding for the lease of dark fiber.

G. Other Actions to Reduce Waste, Fraud and Abuse

Paragraph 30. Rules to Ensure Cost-Effective Funding Requests

The Commission requested comment on:

“...whether we should codify additional rules to ensure that applicants make informed and reasonable decisions in deciding for which services they will seek discounts. Currently, our rules specify that, in selecting a service provider, a recipient must carefully consider all bids submitted and must select the most cost-effective service offering.[and] that applicants must request services based on an assessment of their reasonable needs.”

We believe that the current rules suffice.

The Commission should beware how you constrain local and state educational technology planning and procurement when you reduce the latitude granted by the current rules to educators and librarians to include all relevant considerations in the selection of a service and service provider.

The increasing interoperability and mission-criticality of many eligible services make a credible decision process more complex and less tolerant of components whose procurement is driven by the single attribute of current-program-year-cost.

Paragraph 31. Record-keeping Requirements.

The Commission requested comment on:

“...requiring that service providers retain all records related to the delivery of discounted services for a period of five years after the completion of the service. Further we seek comment on a requirement that service providers comply with random audits or reviews that the Commission or USAC may undertake

periodically.[and] requiring beneficiaries to authorize the release of such information.”

We do not support a requirement that service providers retain all records related to the delivery of discounted services for five years. Such a requirement is too broad, given the prodigious variety and quantity of information generated when providing one or more modern Internet information services to multiple applicants. If the Commission continues to see merit in such record-keeping, then we urge you to seek comment on a proposed list of required record-types before ordering the requirement.

Absent such a list of required record-types and time to accumulate, systematize and verify them, we do not support at this time a requirement for service provider audit-compliance or beneficiary-authorized release of such information.

Paragraph 34. Registration of Consultants and Outside Experts.

The Commission requested comment on:

“...whether consultants and other outside experts offering their services to applicants should be required to register with USAC and to disclose any potential conflicts of interests derived from relationships with service providers.”

We support the annual registration of consultants and other outside experts with USAC as well as their annual disclosure of potential conflicts of interests.

Submitted by:

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